C.F. 71.

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# Department of Rev.

OFFICE of the Collector

STATION Madura.

Miii No. 2252

Dated 13-7-37

A 2266/37

Pages in one file

(SUBJECT.)

Suit – Lanam Tcqn – (S. Ramana) – Manaadus. Tk. –

Kadri "A" village. Collr's Rulings thereon with comments –

Mr. Ramana's petn. – Collr's action

Approved.

Ref. B3 194/37.

6 - JUL 1937

From

South Canara Collector's Office,

Mangalore, dated 1st July 1937.

M. R. Ry. Rao Bahadur

T. V. Vellodi, Avl, B.A.

Collector of South Canara.

To

The Secretary to the

Board of Revenue,

Madras.

Sir,

Suit--Land Acquisition--Mangalore Taluk--Kadri village--Collector's Bungalow with compound--Examination of witnesses etc.

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On the 22nd of June I received a copy of a communication sent by the Revenue Divisional Officer, Mangalore, to the Government Pleader, Mangalore. It was a letter returning a signed memo prepared by the Government Pleader to be filed in the Sub Court of Mangalore, making Mr. C. F. Gawne, I.C.S. as a party to the reference made by the Revenue Divisional Officer, Mangalore, in respect of the apportionment of the award passed by him in acquiring the Collector's Bungalow and compound. On receipt of this communication I informed the Government Pleader that he should have taken my instructions before asking the Revenue Divisional Officer to sign the memo and for filing it in Court.

2. It appears that Mr. Gawne had written to the Government Pleader after obtaining instructions from Government to prepare a memo, get it signed by the Divisional Officer and have it filed in the Sub Court. The Collector of South Canara had not, however, been favoured by Mr. Gawne with a copy of his letter to the Government Pleader or any letter explaining what instructions he had received from Government or whether the Board had been consulted in the matter at all.

3. For the information of the Board I enclose copies of the following communications:

(1) Letter dated 12th April 1937 from Mr. Gawne to the Government Pleader, Mangalore. [illegible]

(2) Letter dated 8th June 1937 from Mr. Gawne to the Government Pleader, Mangalore. [illegible].

(3) Copy of the memo prepared by the Government Pleader, Mangalore and sent for Mr. Gawne's approval. [illegible]

(4) My letter No. B3 194--37 dated 24th June 1937 to the Government Pleader. [illegible].

and (5) Letter from the Government Pleader No. 270/37 dated 27th June 1937. [illegible]

4. In the circumstances stated by the Government Pleader in his letter last cited I have allowed him to file the memo. I request that the Board may be pleased to sanction my action in instructing the Government Pleader to file the memo of the Revenue Divisional Officer, Mangalore to include Mr. Gawne as party to the reference.

M. V. Vallat.

Collector.

Cathedral house,

Teynapet, Madras.

14th April 1937.

Dear Mr. Subbaliya Rao,

Collector's bungalow acquisition - Reference to Civil Court - claim of B.D. Naidu for rent against extenant.

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You will be aware that the High Court dismissed my revision petition against the judgment of the Sub-Court, Mangalore in S.C.no. 116/1935. The claim of B.D. Naidu to receive rent at Rs. 37-8-0 per mensem from 1st January 1934 has been confirmed. In the Summary suit he claimed rent up to 30th June 1935. There still remains the period from 1st July 1935 to 6th March 1936.

1) I have not received any claim as yet from B.D. Naidu for this latter period of eight months. During this period I was not paying rent to James Brito, though I regarded him as the proper person to receive that particular share of the rent But an amount of Rs. 20-0-0 monthly was being credited by me to James Brito to repay a loan which I had been forced to make the verandah in June 1935. In the Land Acquisition award the cost of re-roofing, Rs. 2027-0-0 was added specially as charges in addition to the value of the bungalow as ----- capitalised, on the ground that this re-roofing would not have been undertaken by the land-lords if they had known that the bungalow was going to be acquired immediately.

2) I had taken the orders of the Government as to the steps which I should take to claim from this sum of Rs. 2027-0-0 the amount that would be demanded of me by B.D. Naidu since the Rs. 2027/- was a specific sum awarded for a specific item of expense. I am advised that I should not claim the amount from the court, as I have no claim before the court now, but that I should ask you to file a statement in court explaining how the rent due to James Brito after 30th June was been adjusted by me towards the cost of the re-roofing and that the

amount now in court includes therefore the rent payable to B.D. Naidu from 1st July 1935 up to the date of the acquisition and that he may be paid out of the amount in court deposit. I should then send a notice to B.D. Naidu that this statement has been filed in court and that he should therefore elect to take this amount, rather than claim rent from me. I request therefore that you will file such a statement and inform me when it has been filed so that I can send the requisite notice to B.D. Naidu.

Yours sincerely,
sd/- A.M.Gawne,

To, The Hon'ble R. B.Sambiva Rao, Avl., Government Pleader,
Mangalore, South Kanara.

(True copy)

Agawne
27.7.37
For Collector.

27.7.37

Cathedral House,

Teynapet, Madras,

8th June 1937.

Dear Mr. Sadashiva Rao,

Your letter of the 5th inst. I am obliged for the draft of the statement which you have sent. I approve of the statement and I am sending a typed copy for the Revenue Divisional Officer to file, so that you can keep a copy for your own information. I have retained a carbon copy for my own use.

Yours sincerely,

Sd/- H.M. Gwynne,

M.R.Ry. Mark I Sadashiva Rao, Avl.,

Government Pleader, Mangalore.

(True copy)

For Collector.

In the Court of the Sub-Judge, South Kanara.

L.A. Case No. 8/1936.

Between:

The Revenue Divisional Officer, Mangalore - Petitioner.

versus.

John J. Fernandes and others ...espondents.

M e m o.

1. That the Land Acquisition Officer in the above case begs to state the following few facts as being relevant to the subject-matter of the enquiry with reference to the amounts claimed inter s between the parties.

2. That out of the amounts awarded as compensation in the above case, a sum of Rs. 2027-0-0 represents the amount of damages sustained by the owners, due on account of the improvements effected to a portion of the Bungalow by Mr. E.M. Gawne, the then Collector of South Kanara. As stated in para 16 of the award half of the said amount is to go to Mr. J.J. Fernandes, as he has paid half the cost of repairs to Mr. Gawne. Out of the remaining half, a half of it, less Rs. 62-6-9 particulars of which are given in para 16 of the award must go to Mr. B.S. Fernandes. The remaining 1/4 of the amount (viz. Rs. 506-13-0) which represents the share of Mrs. S.S. Brito and James Brito had to be worked out by an adjustment of 1/4 of the rent of the bungalow due to the said share by arrangement similar to that with Mr. B.S. Fernandes.

3. On account of the purchase in court auction by Mr. B.D. Naidu of the interest in the property of Mrs. S.S. Brito there was a question raised in S.C.No.116/35 on the file of this court, a rent suit filed by Mr. B. D. Naidu against Mr. E.M.Gawne, as to whether Mrs. S.S. Brito's rights to collect the quarter share of the rent of the Bungalow has passed to Mr. B.D.Naidu and the question has been settled in favour of Mr. B.D. Naidu by the High Court in a civil Revision petition filed by Mr. E.M.Gawne against the decree of this court in the said suit S.C. No.116/35.

4. Under the said circumstances the quarter share of the amount viz., Rs.506-12-0 is still available for Mr. B.D.Naidu for adjustment towards the rents still remaining due to him up to the date of the acquisition. Mr. Gawne has intimated his willingness to Mr. B.D. Naidu drawing the amount of the balance rental due to him out of the said fund of Rs.506-12-0 the balance being payable to Mr. Gawne.

5. So that these adjustments may be satisfactorily settled in the presence of the parties concerned Mr. T.M.Gawne, I.C.S., who is now the Collector of Chingleput may be made a party to the above reference and the details worked out.

Sd/- M. S. Jagannayakulu,
16-6-1937
Revenue Divisional Officer,
M a n g a l o r e.

(True copy)

2.7.37.

For Collector.

2.7.37

Ref.B3.194-37. 9

South Kanara Collector's office,

Mangalore, dated 24th June 1937.

From

M.R.Ry. Rao Bahadur M. V. Vellodi, Avl., B.A.,

Collector of South Kanara.

To

The Government Pleader,

M a n g a l o r e.

Sir,

Land Acquisition -- Mangalore Taluk - Kadri "A" village- Collector's Bungalow with compound - Examination of witnesses etc.

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From a communication received from the Revenue Divisiona Officer, Mangalore, I find that on instructions from Mr. Gawne a memo was prepared by you and sent to the Revenue Divisional Officer for his signature and that he signed the memo and sent it back to you for filing in Court. I consider that you should not have done these things without obtaining my consent.

Strictly speaking I should have obtained the orders of the Board to make Mr. Gawne a party to the reference. I do not of course question the correctness of any statement made by Mr. Gawne in his letter to you dated 12th April 1937, but inasmuch as I would be held responsible by the Board and the Government for all action in connection with this reference after I have taken charge, it was incumbent on you to have consulted me before asking the Revenue Divisional Officer to sign the memo. prepared by you.

Sd/- M. V. Vellodi,

Collector.

(True copy)

2.7.

For Collector.

2.7.37

Ref.No.A.270/37.

Mangalore,

Dated 27 - 6- 1937.

From

M.R.Ry. K. Sadashiva Rao, Avl., B.A., M.L.,
Government Pleader,
M a n g a l o r e.

To

The Collector,
South Kanara,
M a n g a l o r e.

Sir,

Land Acquisition - Mangalore Taluk - Kadri village - Collector's Bungalow with compound.

Ref:- B.3.194-37 dated 24-6-1937.

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The memo referred to in the above letter was returned to me by the Sub Court for representation with a stamped --- petition. I have kept it back with me and I am not representing it pending your instructions as to whether I should file it into court at all or not.

I may state the following few facts for your consideratio on the above question. The memo embodies a request to make Mr. E.M. Gawne a party in L.A.C.8/36 which is a reference under Section 30 of the Land Acquisition Act for apportionment of the amount awarded among the various parties interested. From the award it may be seen that out of the total amount of --- Rs.41,127-0-0 allowed by the Land Acquisition Officer, he remitted Rs.40,948-2-1 only to the Sub Court, South Kanara and reserved for payment to Mr. Gawne Rs.178-13-11, as the amount due to Mr. Gawne out of the amount of Rs.2027-0-0 allowed by him as damages for effecting certain improvements to a portion of the Bungalow. He arrived at these figures after making certain adjustments, evidently on the statement of Mr. Gawne, as detailed in paragraph 16 of the award.

So far as the adjustment in respect of a one-fourth

share which is considered to belong to Mrs. S.S. Brito and James Brito, there was a dispute of Mr. B. D. Naidu who was party No.22 mentioned in paragraph 10 of the award. Apart from the propriety of the Land Acquisition Officer in entering into this complicated question of apportionment between parties who were not in full agreement and the paying of a portion of the amount directly to Mr. Gawne, and the sending of the balance amount only to the Sub Court for apportionment instead of refering the whole matter to the Sub Court, Mr. Gawne would any how be a necessary party to such a reference. This point becomes more prominent in view of the objections of Mr. B. D. Naidu both before the Land Acquisition Officer and the Sub Court. Before the Land Acquisition Officer he stated as follows:- "The award does not give full particulars as to how the amount of compensation has been arrived at. The claimant is unable to understand the nature of the damages awarded and reserves his claim in this respect in the Civil Court. The Land Acquisition Officer has not decided the question as to whom the amount of compensation is payable nor apportioned the amount among the persons inserted." In the Sub Court after reference he says inter alia as follows:- "The payment of a portion of the amount to one of the claimants before the disposal of the reference is not proper and valid".

Under the above circumstances the apportionment cannot be properly and effectively worked out by the Sub Court without the presence of Mr. Gawne who appears to have received a portion of the amount and who might be entitled to another portion of the amount that is now in the Sub Court. So, when Mr. Gawne wrote to me a letter dated 12.4.1937 a copy of which is herewith enclosed I thought that the difficulty in the Land Acquisition Officer's not having made Mr. Gawne a party to the reference, could be got over by filing a memo as the one now under reference and a copy

of which is herewith enclosed. I would request your attention specially to the last paragraph of Mr. Gawne's letter. In the said letter he informs me that he has taken orders of the Government as to the steps that he should take and that he is advised about the course suggested by him, viz., the filing of a memo into court.

The memo which I prepared contains only a prayer to make Mr. Gawne a party and only such facts as would justify his being made a party to I.A.C.8/36 which ought to have been done under the reference of the Revenue Divisional Officer itself, and especially in view of the fact of his having been a party to the proceedings before the Land Acquisition Officer.

In the above view I considered that the matter involved in the memo was only a formal matter and so advised the Revenue Divisional Officer accordingly. I regret that I did not previously consult the Collector in the matter. I may be informed of your final instructions in the matter at an early date as the cases stand adjourned to 3.7.1937 for trial.

Your obedient servant,

Sd/- K.Sadashiva Rao,
Government Pleader,
Mangalore.

Enclosures.-

1. Copy of the letter of Mr. Gawne, dated 12.4.1937.
2. Copy of the memo proposed to be filed in I.A.C.8/36.

(True Copy)

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27.7.37.
For Collector.

27.7.37

M2 (C.A.H)

## DRAFT FOR APPROVAL.

| | Date. | Initials. |
|---|---|---|
| When received for fair copying | | |
| When copied | | |
| When examined | | |
| When signed | | |
| When despatched. | | |

SUBJECT :—

Suit - Land Acqn - (S. Kanara) - Mangalore TR - Kadri "A" village - colln's Bungalow with compound - Inclusion of Mr. Gajanne as a party - colln's action - Approved.

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO* :—

p1cf No. A226/37 From the ~~colln of S. Kanara Dy B~~ No. 194/37, dated 1.7. 1937. Q.

" _____ " _____ " _____ " _____ 19____.

" _____ " _____ " _____ " _____ 19____.

~~Order~~ / Resolution ~~Ms.~~ / ~~Rout.~~ No. 2252, dated 13.7. 1937.

The Bd approves the colln's action in having instructed the G.P to file the Memo of the R.D.O. Mangalore to include Mr. Gajanne as party to the reference.

copy at pp 7-8 of

hw 7.7.37

9/7/37

to the colln of South Kanara.

13.7.37

# Note-file

M2

~~T.S.~~

A.S(sett)

Suit - Land Acqn - (S. Kamara) - Mangalore Tk. - Kadri "A" village - collr's Bungalow with compound - Inclusion of Mr. Gawne as a party - collr's action - Approval - Requested.

A 2266/37 — pp 1-2 cf.

No A.S(sett)

In the circumstances reported by the collr at pp 1-2 cf, the Bd may approve his action in instructing the G.P. to file the memo of the R.D.O Mangalore to make Mr. Gawne a party to the reference.

vide also last paras of the G.P's letter at p 13 cf)

copy at pp 7-8 cf

Bb 9/7/37

2/ Draft submitted.

Bb 9/7/37.

I don't see any objection to the Bd approving this. 'Said accompts' Mr. Gawne states perhaps been advised the contrary position.

M. 10/7

J.S.

Words have been perhaps were polite to do so. But Mac can be no objection

10/7

Received
13 JUL 1937